HIGH COURT OF UTTRANCHAL AT NAINITAL.

First Appeal No. 423 of 2001
Old F.A. No. 345 of 1997

U.P. State Industries development Corporation Ltd.
Through The secretary of the above Corporation.

…**Appellant.**

Versus

1. The State of U.P. Through Collector
   Dehradun.
2. Diwan Singh, S/O Pratap Singh,
   R/O Haripur/Sehakari (Central Hope Town)
   Pargana Pachhwa Doon, District Dehradun (Claimant)

….. **Respondents.**

Sri Shard Sharma, learned counsel for the appellant.
Sri Nand Prasad, learned Standing Counsel for the respondent no.1.

Date April 12, 2006.

Hon. B.S. Verma, J.

This appeal is directed against the judgment and award dated 13-05-1997 passed by the Additional District Judge/Special Judge, E.C.Act, Dehradun whereby the learned Reference Court decided reference including Land Acquisition Case No. 193 of 1988, Diwan Singh Vs. Collector by a common judgment and order, thereby the reference was partly allowed and the compensation of the land under acquisition was fixed @ Rs. 1,50,000/- per acre. It was further ordered that the claimant shall get 30% solatium and 12% additional compensation on the enhanced amount of compensation and interest as mentioned in the impugned award.

Brief facts of the case giving rise to the present appeal are that the State Government acquired land measuring 245.91 acres belonging to Central Hope Town (Haripur, Selakuin), Tehsil and District Dehardun for the Uttar Pradesh State Industrial Development Corporation ***(for short UPSIDC)*** for developing an Industrial. Notification under Section 4(1) of the Land Acquisition Act 1894 ***(for short the Act)*** was issued and published on 08-05-1985 in the

State Gazette. The U.P.S.I.D.C. has taken over possession over the said land on 17.3.1986. Ultimately, the Special Land Acquisition Officer awarded compensation at the rate of Rs. 96,000/- per acre. Dissatisfied by the compensation amount, the claimant filed objections claiming compensation at higher rate. Therefore, the reference was made to the District Judge. Finally, the reference under appeal was heard and decided by the Additional District/Special Judge, E.C.Act, Dehradun, thereby the compensation was enhanced. Aggrieved, the State has come up in appeal before this Court.

Before the Reference Court, the claimant-respondent alleged that the compensation awarded to him is highly inadequate. The land under acquisition belonged to Haripur Selakuin (Central Hope Town) Dehradun and was situated at Chakrata road, 20 Kms. away from Dehradun city. The land was plain, levelled bearing high potential value. It had all the facilities like water, electricity, road, bus service, telephone, etc. In the adjoining land, several industrial units have been established. Near the acquired land, facilities of school, hospital, bank, post office ands petrol pump are available in addition to the above facilities. The Special Land Acquisition Officer ***(in short the S.L.A.O.)*** had incorrectly determined the compensation on the basis of settlement year 1937-38, which was the last settlement. He further erred in not taking into consideration the sale deed of Khasara No. 238 as an exemplar, which was part of the acquired land. It was further alleged that prior to the Notification under Section 4 of the Act, the rate of the acquired land was more than Rs. 50,000/- per Bigha, therefore, the claimant is entitled to get compensation at the rate more than Rs. 60,000/- per Bigha along with 30% solatium and interest etc.

Opposite Party-appellant filed its written objections before the reference court alleging therein that the compensation awarded is adequate, just and reasonable. The rate of compensation has been assessed on the basis of sale transaction and in accordance

with law. It was stated that the exemplar representing the proper market value of the land was made the basis. The acquired land is agriculture land and no facility for electricity etc. is there. It is alleged that exemplar pertaining to Khasara No. 238 is not indicative of true market value of the acquired land and therefore it was not accepted by the S.L.A.O. No illegality or irregularity has been committed by the S.L.A.O. in giving the award in question.

The reference Court framed necessary issues on the points raised by the parties and after perusing the evidence adduced by the parties, it was held that the compensation paid by the S.L.A.O. at the rate of Rs. 96,000/- per acre which was based on the sale-deed dated 22.01.1985 is inadequate and the claimant-respondents are entitled to get compensation at the rate of Rs. 1,50,000/- per acre vide impugned award dated 13-5-1997. Aggrieved, the U.P.S.I.D.C. has come up in appeal.

It is pertinent to mention that as many as 59 references were taken up together for decision by the learned Reference Court including the present Land Acquisition Reference No. 193 of 1988 and all of them were decided by a common judgment dated 13-5-1997. It may also be noted that as many as 39 First Appeals arising out the same impugned award dated 13-5-1997 have already been dismissed on merit by the Division Bench of this Court vide order dated 28-9-2004. Grounds of challenge raised in the present appeal are identical to that of the aforesaid 39 appeals.

In the course of arguments, Sri Sharad Sharma, learned counsel appearing on behalf of the appellant fairly conceded that Division Bench of this Court has already decided a bunch of as many as 39 First Appeals, which have arisen out the common judgment and award passed by the Reference Court by its impugned order dated 13.5.1997 and the controversy involved in the present appeal stands settled by the judgment dated 28-09-2004 passed by the Division Bench of this Court in First Appeal No. 336 of 2001

U.P.S.I.D.C. Vs. State of U.P and others along with 38 other First Appeals. It has been pointed to that the present appeal is squarely covered by the said order of this Court. It has been mentioned above that the learned Reference Court vide its order dated 13.5.1997 had decided as many as 59 reference relating to acquisition of 245.91 acre land for establishing unit of Uttar Pradesh State Industrial Development Corporation at Dehradun. Aggrieved by the said order, the UPSIDC preferred separate appeals before this Court and a bunch of 39 First Appeals has already been decided by the Division Bench vide judgment dated 28-9-2004.

It has been fairly submitted by learned counsel for both the parties that all the contentions raised on behalf of the contesting parties have already been answered and there is no new ground to challenge the impugned award. I have gone through the Division Bench judgment of this Court dated 28-9-2004 and find that the facts of the present appeal are identical and the case is squarely covered by the aforesaid judgment, whereby 39 First Appeals preferred by the appellant were dismissed on merit. In my opinion, it is expedient in the interest of justice, to dismiss the present appeal on merit in terms of the Division Bench Judgment dated 28-09-2004 passed in First Appeal No. 336 of 2001 U.P.S.I.D.C. Vs. State of U.P.

Accordingly, the present appeal stands dismissed on merit in terms of order dated 28-09-2004 passed by Division Bench of this Court in First Appeal No. 336 for 2001, U.P.S.I.D.C. Vs. State of U.P. and others. No order as to costs.

(B.S. Verma, J.)

RCP